vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.747 OF 2001

Dr.Surya Jayantilal Ruparalia & Ors. ... Petitioners

V/s.

Tikamji Anderji Chatwani & Anr. ... Defendants

Mr.Y.M. Chaudhari for Plaintiffs
Mr.Vijay Agarwal i/b K.V. Aiyar & Associates for Defendants
Mr.D.V. Khade i/b Khade Bapat Kabde Sinha & Associates, Private Receiver, present in Court
Mr.P.G. Rao, Dy. Official Liquidator, present in Court

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JANUARY 20, 2006**

P.C.:

. This is a report by a private Receiver. The Receiver has sought permission for the following reliefs:

(a) Whether the Receiver should accept the offer given by M/s.Safal Sanjana Builders & Developers Pvt. Ltd. having their office at 14, Persepolls, Sector-17, Vashi, Navi Mumbai for the sum of Rs.4.40 Crores (Rupees Four Crores forty Lacs Only) and complete the sale in their favour by handing over possession of the property "Laxmi Niwas", Plot No.63, Scheme XVI, CTS No.753, 753/1 and 753/2 situated at Government Sahar Scheme Road, Andheri (E), Mumbai-400 059, on recovering the balance amount of the purchase price;

(b) If the answer to the prayer (a) is in the affirmative, the Defendants, who are

in possession of the suit property, be directed to hand over vacant possession of the suit property to the Receiver to enable the Receiver to handover the same to the purchasers;

(c) The Plaintiff may be directed to execute the Deed of Conveyance in favour of the purchasers at their cost as per the Order dated 13th July, 2005 passed in the above Appeal;

(d) Any other direction that this Hon'ble Court may deem fit to issue in the matter.

2. The Receiver has obtained a price higher than the reserved bid and therefore, prayer clause (a) can be granted. Prayer Clause (b) is a consequential relief. The defendants who are in possession shall hand over the suit property to the Receiver to enable him to hand over the same to the purchaser. The property shall be handed over simultaneously with the payment of the amount stipulated in the consent terms to the Defendants.

3. The defendants have filed their reply seeking the following reliefs:

(a) to complete the sale in due compliance of Clause 4-(g), (i) & (j) and Clause 5 of the Consent Terms;

(b) to deduct Rs.20 lakhs from the 40% net sale proceeds payable to the Defendant No.2 and to pay the same to the Plaintiff No.1 against the Plaintiff

No.1 submitting letters of resignation and all writings as per Clause 5 of the Consent Terms;

(c) directions be given to the Court Receiver to distribute the sum of Rs.15 lakhs received as deposit from the prospective purchaser Mr.P.N.Chitalia and forfeited by the Receiver in the ratio of 60:40 to the Plaintiff No.1 and the Defendant No.2.

4. In essence, the reliefs claimed are similar to what is sought by the private Receiver. The sale is, therefore, directed to be completed as sought by the private Receiver. Rs.20 lacs shall be deducted from the 40% of the net sale proceeds payable to Defendant No.2 and the same shall be paid to Plaintiff No.1 against plaintiff No.1 submitting the letters of resignation and other writings in terms of clause 5 of the consent terms. It appears that the Receiver has received Rs.15 lacs from a prospective purchaser which has been forfeited by the Receiver. The same shall be distributed between the plaintiff No.1 and Defendant No.2 in the ratio of 60:40. It is obvious that the Receiver should distribute the amount of the purchase price in accordance with the consent terms.

5. Receiver to act on an authenticated copy of this order.

6. Certified copy expedited.